

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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**SANDRA HERAS,**

**Plaintiff,**

**MEMORANDUM  
AND ORDER**

**-against-**

**19-CV-2694 (DG)**

**METROPOLITAN LEARNING INSTITUTE, et al.,**

**Defendants.**

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**ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:**

As evidenced in plaintiff's latest discovery-related application (DE #45) and defendants' response thereto (DE #46), the parties have ignored the directives of this Court and persist in digging in their heels with respect to discovery issues. Contrary to this Court's Memorandum and Order of July 30, 2021 (DE #41), as well as its reiteration of that holding in its Order of August 3, 2021, plaintiff's counsel continues to insist that this Court ruled "that class wide discovery can continue in this action" (DE #45 at 1). In fact, "the Court did not authorize 'class wide discovery[.]'" 8/3/21 Order. Staking out an equally extreme and unfounded position, defense counsel argues that "since this Court has not ordered class-wide discovery as of yet," any ESI discovery should "be limited in scope to only Plaintiff's specific employment relationship with Defendant . . . ." (DE #46 at 1). However, this Court's July 30th M&O expressly drew a distinction between classwide discovery (which the Court disallowed) and discovery of "documents relating to [defendants'] policies and practices" (DE #41 at 3), which was permitted.

It is unclear from the parties' perfunctory submissions whether they have reached agreement as to the custodians whose ESI is to be searched and as to the search terms to be utilized.<sup>1</sup> Once again, the Court directs the parties to confer *in good faith* to resolve any remaining disputes, and directs defendants to complete their production, in a manner consistent with the Court's multiple discovery orders, no later than August 21, 2021.

**SO ORDERED.**

**Dated: Brooklyn, New York  
August 10, 2021**

/s/ *Roanne L. Mann*  
**ROANNE L. MANN**  
**UNITED STATES MAGISTRATE JUDGE**

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<sup>1</sup> Although the email threads attached to plaintiff's pending motion suggest that defendants oppose using certain requested search terms, the defense response to that motion appears to consent to "Plaintiff's referenced email search terms cited in her counsel's letter motion" - albeit with production limited to "Plaintiff's specific employment relationship with Defendant" (DE #46 at 1).